

The Administrative Law Judge denied claimant's request for medical treatment and weekly temporary total disability benefits in an Order dated April 28, 1995. The claimant timely filed an application before the Appeals Board to review that Order. The Administrative Law Judge did not state in the Order the reasons he denied claimant's request for preliminary hearing benefits. Accordingly, the Appeals Board remanded the Order to the Administrative Law Judge for specific findings as to why benefits were denied.

The Administrative Law Judge, in the Order that is the subject of this appeal, stated benefits were previously denied for the following reasons:

- "1. Claimant suffered a fainting spell of unknown origin, no causal relationship to his employment.
- "2. Claimant failed to use proper safeguards, to wit: a seatbelt.
- "3. Claimant failed to attend a scheduled medical appointment.
- "4. No medical evidence suggesting a current need for medical care and a relationship to the January 4, 1995 incident."

Claimant has timely appealed that Order to the Appeals Board. Prior to addressing the two issues raised by the claimant, the Appeals Board will address whether it has jurisdiction to review this preliminary hearing Order. One of the reasons the Administrative Law Judge stated he denied claimant's request for medical treatment was that claimant presented no medical evidence suggesting a current need for medical care in relation to claimant's accident. The Administrative Law Judge has the authority to grant or deny medical compensation pursuant to the preliminary hearing statute, pending conclusion of a full hearing on the claim. See K.S.A. 44-534a(a)(2), as amended by S.B. 649 (1996). The Administrative Law Judge, in this case, found that the preliminary hearing record did not contain evidence that claimant's need for medical treatment was related to his accident. Accordingly, the Administrative Law Judge did not exceed his jurisdiction because he has the statutory authority to make that finding. Therefore, the Appeals Board finds it does not have jurisdiction, at this juncture of the proceeding, to review the preliminary hearing Order. See K.S.A. 44-551, as amended by S.B. 649 (1996).

The two issues raised by the claimant are issues that are set forth in K.S.A. 44-534a(a)(2), as amended by S.B. 649 (1996), that if disputed, grant Appeals Board review of a preliminary hearing order. However, the Appeals Board finds that there is no need to review these issues since it does not have jurisdiction to review the Administrative Law Judge's decision that denied claimant's need for medical treatment.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that this appeal should be and is hereby dismissed and the preliminary hearing Order of Administrative Law Judge Steven J. Howard dated February 27, 1996 remains in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of May 1996.

BOARD MEMBER

c: Steven D. Treaster, Overland Park, KS
Karen D. Pendland, Kansas City, MO
Steven J. Howard, Administrative Law Judge

JAMES E. McROY

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Philip S. Harness, Director